IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1324/2006

BALLE @ NARENDRA YADAV Vs. STATE OF RAJASTHAN

Date: 03.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Anil Jain for the petitioner.
Mr. Jainendra Jain, Public Prosecutor for the State.

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This revision petition is directed against the judgment dated 07.08.2004 passed by the trial Court and the order dated 04.03.2005 passed by the appellate Court. Vide judgment dated 07.08.2004 the trial Court after holding the petitioner guilty under Section 457 IPC, sentenced him to suffer rigorous imprisonment for three years and a fine of Rs. 500/-, in default of payment of fine to further suffer 10 days simple imprisonment and also holding guilty under Section 380 IPC, the petitioner has been sentenced to suffer three years rigorous imprisonment and a fine of Rs. 500/-, in default of payment to fine to further suffer 10 days simple imprisonment.

Against the said judgment dated 07.08.2004, the petitioner preferred appeal and the appellate Court

i.e. Sessions Judge, Dholpur vide order dated 04.03.2005, rejected the appeal on the ground of delay and latches as the petitioner has not been able to give explanation with regard to delay caused in filing the appeal.

It is not disputed that the appellate Court has not considered the appeal on merit. Delay in filing the appeal was on account of the fact that the petitioner is in jail and nobody is to look after and to pursue his matter outside the jail, therefore, delay was caused in filing the appeal. Although the appeal is filed after inordinate delay but in the interest of justice, the appellate Court should have examine the matter on merit and rejection of appeal merely on technical grounds is against the principle of natural justice as held by the Hon'ble Supreme Court in the case of ***Municipal Corporation of Delhi Vs. Girdhari Lal Sapuru & Ors., reported in 1981 Criminal Appeals Reporter 348(SC),*** wherein the Hon'ble Supreme Court has observed that High Court has suo motu powers of revision- Revision filed even if time barred High Court could not have rejected it on technical ground as time barred.

Having carefully gone through the aforesaid judgment rendered by the Hon'ble Supreme Court and the

judgment passed by the trial Court as well as by the appellate Court, in the interest of justice, I deem it proper to remand the matter back to the appellate Court to hear it on merit also and shall consider the appeal on merit and decide the matter afresh on the basis of the relevant record and the evidence adduced before the trial Court. The impugned order dated 04.03.2005 passed by the Sessions Judge, Dholpur is herewith quashed and set-aside and the matter is remitted back to the appellate Court for fresh adjudication as indicated herein above.

The revision petition stands disposed of accordingly.

(K.S. RATHORE),J.

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